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in view of the general purpose of the law, to inquire into the mental attitude of the defendant in fixing a *prima facie* liability.<sup>14</sup> And it is submitted that in those cases where the mental attitude of the defendant is the determining factor in fixing the ultimate liability, that factor has been considered under the further problem of what may technically be called "justification," which is determined by various considerations of public policy.<sup>15</sup> There can be no question of justification in the case under discussion.

Apparent and perhaps real exceptions to the principles thus briefly laid down may occur. The law has grown by slow stages, and it would be strange if it presented a uniformly logical system of principles. But this would seem the proper analysis upon which to base any future development of the law of torts.<sup>16</sup> Nor is lack of precise precedent<sup>17</sup> an argument of much weight<sup>18</sup> in the class of cases to which the principal case belongs.<sup>19</sup>

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## RECENT CASES.

**ALIENS — NATURALIZATION ACT — PROOF OF RESIDENCE BY SUPPLEMENTARY AFFIDAVITS.** — The Naturalization Act of June 29, 1906, provides that the petition of an applicant for naturalization "shall also be verified by the affidavits of at least two credible witnesses . . . who shall state in their affidavits that they have personally known the applicant to be a resident of the United States for a period of at least five years continuously." The affidavits of two witnesses stated that they had personally seen the petitioner from 1904 to July, 1905. These were supplemented by the affidavits of three other witnesses who had known the petitioner four years and ten months immediately preceding the date of filing the petition. *Held*, that the requirement of the statute is satisfied. *In re Godlover*, 181 Fed. 731 (Circ. Ct., N. D. Cal.).

The former act merely provided that the five years' residence "shall be made to appear to the satisfaction of the court." U. S. REV. STAT., 1878, § 2165. The present act specifically requires the testimony of at least two witnesses. 34 U. S. STAT. AT L. 596, 598. The provision regarding affidavits is additional. The obvious purpose of these and other sections is to prevent the naturalization of aliens who have lived in this country for a lesser period than five continuous years preceding the date of the petition. And the purpose is accomplished by this construction. The language is not wholly unambiguous, and the construction put upon it in the principal case is sensible and just. Moreover, statutes regarding the rights of citizenship should be construed liberally. *In re Polsson*, 159 Fed. 283.

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<sup>14</sup> See *id.* 107, 130.

<sup>15</sup> A clear illustration can be taken from the law of defamation in respect to the defenses of truth and privilege absolute and conditional. This seems also the proper analysis of cases arising from labor and trade disputes.

<sup>16</sup> See the dissenting opinion of Holmes, J., in *Vegehlán v. Guntner*, 167 Mass. 92, 105-109, the dissenting opinion in *Payne v. R. R.*, 13 Lea (Tenn.) 507, 528; 20 HARV. L. REV. 253.

<sup>17</sup> This precise point was raised and left undecided in *McNary v. Chamberlain*, 34 Conn. 384.

<sup>18</sup> See 14 HARV. L. REV. 193.

<sup>19</sup> For a full and clear analysis of the whole subject, see HOLMES, COMMON LAW, Lectures 3 and 4; 8 HARV. L. REV. 377-395.

**BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — RIGHT OF ACTION FOR FRAUD CAUSING DAMAGE TO PROPERTY.** — The plaintiff in an action of tort for fraudulent representations inducing him to buy bonds at prices greater than their value was adjudicated a bankrupt. *Held*, that the right of action passed to the trustee in bankruptcy. *In re Gay*, 182 Fed. 260 (Dist. Ct., D. Mass.). See *NOTES*, p. 396.

**BILLS AND NOTES — CERTAINTY OF AMOUNT — MARGINAL FIGURES.** — A made a note with no sum named in the body, but with the figures £50 in the upper left-hand corner. *Held*, that this is a valid promissory note for fifty pounds. *Heeney v. Addy*, [1910] 2 I. R. 688.

From the irregular form of the note it is doubtful whether any blank for the amount was left in the body of it. If not, it seems easy to say that the figures are intended to be the sole expression of the amount, and that there is a clear promise to pay that sum. *Hubert v. Grady*, 59 Tex. 502; *Strickland v. Holbrooke*, 75 Cal. 268. If a blank has been left there is an omission of an essential part of the note, and the marginal figures are allowed to supply it. Some jurisdictions in the United States allow this. *Witely v. Michigan Mutual Life Insurance Co.*, 24 N. E. 141 (Ind.); *Ives v. The Farmers' Bank*, 84 Mass. 236. Others do not. *Norwich Bank v. Hyde*, 13 Conn. 279; *Hollen v. Davis*, 59 Ia. 444. The plaintiff could undoubtedly fill in for the fifty pounds, and recover. See *BRANNAN*, *NEG. INST. LAW*, § 14; *Chestnut v. Chestnut*, 104 Va. 539. And even if he filled in a greater amount a *bonâ fide* purchaser from him could recover for that. *Garrard v. Lewis*, 10 Q. B. D. 30. The note is practically drawn in blank as to the sum payable, and if the plaintiff is willing to accept the marginal figures as such there is nothing to be gained by insisting that he write in the amount.

**BILLS AND NOTES — INDORSEMENT — INDORSEMENT UNDER ASSUMED NAME.** — The defendant received a letter purporting to be from A, requesting a discount on certain vouchers. The letter was in fact written by B and the vouchers forged. The defendant, however, made out the check to A and sent it to the address given. It was received by B, indorsed by him in A's name, and cashed at the plaintiff bank. *Held*, that the bank is not liable. *Mercantile National Bank v. Silverman*, 44 N. Y. L. J. 1449 (N. Y., Sup. Ct.).

In a transaction by letter, where one party is intending to transfer title and the other is acting under an assumed name, the transferor has in fact two intentions, one to pass title to the writer of the letter and the other to pass title to the person who bears the name assumed. That he is not conscious of the composite nature of his intent does not alter the facts of the case. The primary intent, however, seems to be to pass title to the person whose name is assumed; for the transferor had no suspicion of the fraud, and made the advance on the strength of the name. *Cunday v. Lindsay*, 3 App. Cas. 459. If this is true, the impostor had no title to the check and could not indorse it to the bank. *Palm v. Watt*, 7 Hun (N. Y.) 317. It may be, however, that the defendant's negligence in the principal case should preclude him from recovery.

**CONSTITUTIONAL LAW — PERSONAL RIGHTS: CIVIL, POLITICAL, AND RELIGIOUS — GRANDFATHER CLAUSES.** — A Maryland statute provided that the following persons should be entitled to registration as voters in municipal elections: (1) taxpayers assessed for at least \$500, (2) naturalized citizens, (3) their children, (4) citizens who prior to 1868 were entitled to vote in any of the United States, (5) their lawful descendants. *Held*, that the statute is contrary to the Fifteenth Amendment. *Anderson v. Myers*, 182 Fed. 223 (Circ. Ct., D. Md.).

An amendment to the Oklahoma Constitution provided that no person